

ELECTION AND REMARKS

The Examiner has issued a restriction requirement alleging that the application claims two separate inventions. Specifically, the Examiner identifies the two inventions as being: (1) drawn to a compression staple (Claims 17-19 - Group I); and (2) drawn to a stapler applicator (Claims 20-28 - Group II). Applicant hereby elects Group I (Claims 17-19) without traverse.

This application was originally filed as a continuation of application SN 09/500,060 and as a continuation of application SN 09/299,285. In fact, the latter case issued as U.S. Patent No. 6,059,787 prior to the filing date of this application and therefore was not copending with this application. Applicant has amended the first sentence of the specification to more accurately reflect the parentage of this application under 35 U.S.C. 120.

An Information Disclosure Statement accompanies this Amendment and Response.

CONCLUSION

Applicant earnestly believes that he is entitled to a letters patent, and respectfully solicits Examiner to expedite prosecution of this patent application to issuance. Should Examiner have any questions, the Examiner is encouraged to telephone the undersigned.

The Commissioner is authorized to charge any additional fees which may be required, including petition fees and extension of time fees, or credit any overpayment to Deposit Account No. 23-2415 (Docket No. Allen 701.502). A duplicate copy of this paper is enclosed.

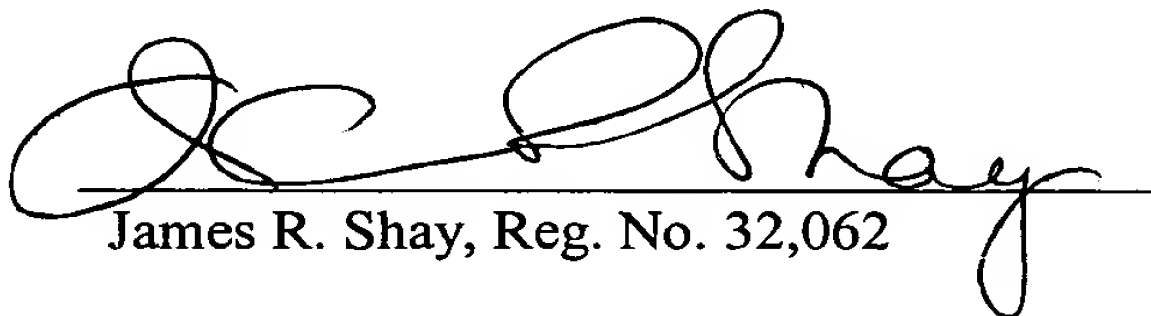
Respectfully submitted,

WILSON SONSINI GOODRICH & ROSATI

Date:

9/30/03

650 Page Mill Road
Palo Alto, CA 94304
(650) 493-9300
Customer No. 021971


James R. Shay, Reg. No. 32,062